

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY
PENNSYLVANIA

IN RE: PETITION FOR THE
APPOINTMENT OF VIEWERS TO
ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGHT-
TENING, ELEVATING AND RE-
LOCATING OF BARNETT STREET,
COMMONLY KNOWN AS ROUTE 1101,
SPUR 6, IN THE CITY OF JOHNSTOWN,
COUNTY OF CAMBRIA AND
STATE OF PENNSYLVANIA

Filed - Dec 23,

ANSWER 1957
FOR RULE TO SHOW CAUSE

GLEASON & KRUMENACKER
ATTORNEYS AT LAW
JOHNSTOWN, PA.

*And now, this 23rd day of December, 1957, service
of the within answers is hereby accepted.*

*Edward J. Doughty
attorney for Dept of Highways*

IN RE: PETITION FOR THE APPOINTMENT OF VIEWERS TO ASSESS DAMAGES OCCASIONED BY THE WIDENING, STRAIGHTENING, ELEVATING AND RELOCATING OF BARNETT STREET, COMMONLY KNOWN AS ROUTE 1101, SPUR 6, IN THE CITY OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA.

I IN THE COURT OF QUARTER SESSIONS
I
I OF CAMBRIA COUNTY
I
I PENNSYLVANIA
I
I NO. 1, JUNE TERM, 1957
I ROAD DOCKET

ANSWER FOR RULE TO SHOW CAUSE

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The Answer of the City of Johnstown, Pennsylvania respectfully represents:

1. City of Johnstown admits the allegation of paragraph one.
2. Admitted.
3. Admitted.
4. It is alleged by the City of Johnstown that it did adopt the plan for the change of Barnett Street, but it should be noted that it adopted it by Ordinance No. 3112, and to determine to what degree it did adopt these plans, reference must be made to the Ordinance.
5. The allegations in paragraph five of the Petition of the Commonwealth of Pennsylvania is denied, and on the contrary it is alleged that the Commonwealth of Pennsylvania is responsible for the damages resulting from the change of lines, grades, and widths of Barnett Street, regardless of the provisions of Article V, Section 523 of the Act of June 1, 1945, P.L. 1242, as amended, 36 P.S. 670-523, and it is further alleged that the City of Johnstown can only become responsible in accordance with the Ordinance it adopted.
6. It is admitted that Section 2 of the Ordinance adopted by the City of Johnstown provides as follows:

"The City of Johnstown, Pennsylvania, hereby assumes responsibility for the removal of all non-utility structures where necessary for the opening or improvement in accordance with the said plan."

This is construed by the City of Johnstown as limiting its liability for damages to the removal of non-utility structures, as set forth in the Ordinance. It is the position of the City of Johnstown that since this Ordinance was prepared by the Department of Highways, of the Commonwealth of Pennsylvania, and it specifically enumerates those instances in which the City of Johnstown would be responsible for damages, the City's liability is limited to those damages set forth in the Ordinance as prepared by the Commonwealth of Pennsylvania.

7. The City of Johnstown denies the right of the Commonwealth of Pennsylvania, at this time, to put any construction on the Ordinance which they prepared at the City of Johnstown, except that which is set forth in the Ordinance itself. A reading of the Ordinance can lead to only one conclusion and that is that the City of Johnstown would pay only for the removal of non-utilities structures.

8. Admitted.

WHEREFORE, the City of Johnstown prays your Honorable Court for a rule to show cause why the Department of Highways of the Commonwealth of Pennsylvania should not be dropped or discharged as an additional Defendant and further order that they remain as an additional Defendant in the above captioned case.

CITY OF JOHNSTOWN

BY:


CITY SOLICITOR

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CAMBRIA:

Personally appeared before me, a Notary Public in and for said County and State, NORMAN KRUMENACKER, who, being sworn according to law, deposes and says that he is the City Solicitor for the City of Johnstown, Pennsylvania, and that the matters set forth in the foregoing Answer are true and correct to the best of his knowledge, information and belief.



City Solicitor

Sworn and subscribed to

before me this 20 day

of December,

1957.


Notary Public.

Johnstown, Cambria County, Penna.
My Commission Expires February 20, 1961

Road Docket
NO. 1 JUNE TERM, 1957.

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA.

IN RE: PETITION FOR THE
APPOINTMENT OF VIEWERS TO
ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGHTEN-
ING, ELEVATING AND RELOCATING
OF BARNETT STREET, COMMONLY
KNOWN AS ROUTE 11011, SPUR
6, IN THE CITY OF JOHNSTOWN,
COUNTY OF CAMBRIA AND STATE
OF PENNSYLVANIA.

PETITION FOR APPOINTMENT OF
VIEWERS; DECREE THEREON;
NOTICE TO CITY.

Filed: April 8, 1957.

LAW OFFICES.

SAMUEL R. DI FRANCESCO

303 SICILIANO BUILDING - 422 LINCOLN STREET

JOHNSTOWN, PENNSYLVANIA

IN RE: PETITION FOR THE APPOINTMENT OF VIEWERS TO ASSESS DAMAGES OCCASIONED BY THE WIDENING, STRAIGHTENING, ELEVATING AND RELOCATING OF BARNETT STREET, COMMONLY KNOWN AS ROUTE 11011, SPUR 6, IN THE CITY OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA.

In the Court of Quarter Sessions
of Cambria County, Pennsylvania

R.D.
No. 1

June Term, 1957

STIPULATION AND AGREEMENT OF COUNSEL

AND NOW, November 7, 1957, IT IS HEREBY STIPULATED AND AGREED among counsel of record in the above captioned proceedings that the County of Cambria in the State of Pennsylvania, heretofore joined as a party in this proceedings, shall be discharged as a party defendant in this proceedings and is in no way liable for any damages suffered by Samuel M. Speranza and Lena Speranza, husband and wife, property owners who have petitioned for the appointment of Viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barnett Street in the City of Johnstown.

Samuel R. DiFrancesco
Samuel R. DiFrancesco, Attorney for
Samuel M. Speranza and Lena Speranza

Thomas L. ...
Solicitor for City of Johnstown

William D. Shettig
Solicitor for Cambria County

Michael R. Deelman
Asst. Deputy Attorney General, Acting for
Department of Highways

*Filed -
Dec. 16, 1957 by
Wm. Shettig*

IN RE: PETITION FOR THE APPOINTMENT
OF VIEWERS TO ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGHTENING, ELEVATING
AND RELOCATING OF BARNETT STREET, COMMONLY
KNOWN AS ROUTE 11011, SPUR 6, IN THE CITY
OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE
OF PENNSYLVANIA.

(IN THE COURT OF
QUARTER SESSIONS OF
CAMBRIA COUNTY, PA.
(
(NO. _____ JUNE TERM,
1957.
)

PETITION FOR APPOINTMENT OF VIEWERS

TO THE HONORABLE, THE JUDGES OF THE COURT OF QUARTER SESSIONS IN
AND FOR CAMBRIA COUNTY, PENNSYLVANIA:

The petition of SAMUEL M. SPERANZA and LENA
SPERANZA, husband and wife, respectfully represents:

(1). That your petitioners are the owners of
ALL that certain lot or piece of ground situate, lying and being
in the Eighth Ward of the City of Johnstown, County of Cambria
and State of Pennsylvania, bounded and described as follows:

FRONTING fifty-six and thirty-five hundredths (56.35) feet on Esty Street
and extending back between parallel lines one hundred eighty-
nine and thirty-nine hundredths (189.39) feet on the Westerly
side and one hundred eighty-four and seventy-three hundredths
(184.73) feet on the Easterly side to Barnett Street; having
Lot No. 10 on the hereinafter mentioned Plan of Lots on the East-
erly side and Lot No. 12 on the Westerly side; being marked, known
and numbered on the Joseph F. Mayer Plan of Lots as surveyed by
S. E. Dickey & Company, October 24, 1913, revised July 20, 1915,
and recorded in the office of the Recorder of Deeds in and for
Cambria County in Plat Book Vol. 1, page 152, as Lot No. 11, and
also including a five (5) foot strip along Esty Street as added
by Ordinance No. 283 of the said City of Johnstown.

BEING the same lot or piece of ground which Donald H. Bradish et ux.,
by their deed dated the 26th day of January, 1952, and recorded in
the Office of the Recorder of Deeds, in and for Cambria County,
Pennsylvania, on January 28, 1952, in Deed Book Vol. 628, at page
457, granted and conveyed to Samuel M. Speranza and Lena Speranza,
husband and wife.

(2). That recently, to wit, by Ordinance of the
City of Johnstown on August 31, 1954, and by Construction Plan
of the Pennsylvania Department of Highways signed by the then
Governor of the State of Pennsylvania on September 13, 1954, it
became necessary to widen, straighten, elevate and relocate
Barnett Street (commonly known as Route 11011, Spur 6).

The said work was done by the Pennsylvania Department of Highways.

(3). In the process of the aforesaid alteration and construction of the said Barnett Street, the elevation of the said street was raised upwards an approximate distance of three (3) feet, thereby making the road of such a height beyond the level of the entrance of the petitioners garage so as to render the garage inaccessible and unusable for any purpose whatsoever.

(4). That in addition thereto, because of the elevation of the said Barnett Street as aforesaid, during rains and washouts the land of petitioners is constantly being cluttered up by debris from the hillside and road, causing great and irreparable damage.

(5). That your petitioners were greatly injured and damaged by reason of the said alteration and construction of Barnett Street by the City of Johnstown for public purposes, which damages have not been ascertained or paid.

Your petitioners therefore pray your Honorable Court to appoint a Jury of View of three members of the Permanent Board of Viewers of Cambria County to determine and assess the damage they have sustained by reason of the aforesaid changes on Barnett Street, and the damages occasioned thereby to their property, and to make return to this Court.

Samuel M. Spangola

Lena Spangola

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CAMBRIA

SS:

Personally appeared before me, a Notary Public,
in and for said County and State, SAMUEL M. SPERANZA and LENA
SPERANZA, husband and wife, who being by me duly sworn according
to law, depose and say that they are the petitioners within set
forth, and that the statements contained in said petition are
true and correct to the best of their knowledge, information and
belief.

Samuel M. Speranza

Lena Speranza

SWORN and subscribed before me
this 4th day of April, 1957.

Samuel M. Speranza
Notary Public

MY COMMISSION EXPIRES
APRIL 13, 1957

IN RE: PETITION FOR THE APPOINTMENT
OF VIEWERS TO ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGHTENING, ELEVATING
AND RELOCATING OF BARNETT STREET, COMMONLY
KNOWN AS ROUTE 11011, SPUR 6, IN THE CITY
OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE
OF PENNSYLVANIA.

IN THE COURT OF
QUARTER SESSIONS OF
CAMBRIA COUNTY, PA.

NO. _____ JUNE TERM,
1957.

DECREE

AND NOW, this 8 day of April, 1957,
on motion of Samuel R. DiFrancesco, Esq., for Petitioners, the
Court does grant the prayer thereof and does appoint Fred
W. Claphin, Mahlon Baumgardner,
and Robert Meyer, As Viewers to
assess the damages and benefits in the above matter in accordance
with the prayer of the foregoing petition; and does further order
and direct that the said Viewers make a report of their proceed-
ings to this Court at No. _____ Term, 1957, in
accordance with the provisions of the Act of Assembly in such
case made and provided.

McDonald
J.

And now, this 29 day of April, 1957 the appointment
of Robert S. Meyer as viewer is hereby vacated, and
Theodore Hunt is appointed in his place + stead.
By the Court
McDonald, J.

EXHIBIT A

IN RE: PETITION FOR THE APPOINTMENT OF VIEWERS TO ASSESS DAMAGES OCCASIONED BY THE WIDENING, STRAIGHTENING, ELEVATING AND RELOCATING OF BARNETT STREET, COMMONLY KNOWN AS ROUTE 11011, SPUR 6, IN THE CITY OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA.

IN THE COURT OF
QUARTER SESSIONS OF
CAMBRIA COUNTY, PA.

NO. _____ JUNE TERM,
1957.

NOTICE TO CITY

TO: THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF JOHNSTOWN,
CAMBRIA COUNTY, PENNSYLVANIA.

You will please take notice that there will be a petition presented to the Court of Quarter Sessions of Cambria County at Ebensburg, Pennsylvania, in the said County at 10 o'clock A. M., the 8 day of April, 1957, asking the Court for the appointment of Viewers to determine and assess the damages sustained by the Petitioners, occasioned by the widening, straightening, elevating and relocating of Barnett Street, Commonly known as Route 11011, Spur 6, in the City of Johnstown, Cambria County, Pennsylvania.

You may be present at the above time and place if you wish to be heard on the presentation of the said petition.

Samuel R. Houser

Attorney for Petitioners.

* * * * *

NOW, the 4th day of April, 1957,
service of the above stated notice is hereby accepted.

John J. Cullen
City Clerk

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN RE: PETITION FOR THE
APPOINTMENT OF VIEWERS TO
ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGHTEN-
ING, ELEVATING AND RELOCATING,
OF BARNETT STREET, COMMONLY
KNOWN AS ROUTE 11011, SPUR 6,
IN THE CITY OF JOHNSTOWN,
COUNTY OF CAMBRIA AND STATE
OF PENNSYLVANIA.

30. 50

Filed - Oct. 21, 1957 - J.E.W.

PETITION TO JOIN
ADDITIONAL DEFENDANTS

NORMAN KRUMENACKER
CITY SOLICITOR
Johnstown, Pennsylvania

"The City of Johnstown, Pennsylvania, hereby assumes responsibility for the removal of all non-utility structures where necessary for the opening or improvement in accordance with the said plan."

7. That the City of Johnstown is informed and therefore avers that there is a contract in existence between Cambria County, Pennsylvania, and the Pennsylvania Department of Highways in regard to Barnett Street and all other approaches to what is known as the "Easy Grade."

8. That the City of Johnstown is not responsible for the damage sustained by the original petitioners but allege that either the County of Cambria or the Pennsylvania Department of Highways is responsible for damage sustained by your original petitioners.

Your petitioners therefore prays your Honorable Court to enter an Order ordering both the County of Cambria, Pennsylvania, and the Pennsylvania Department of Highways to defend the action here pending, so that the Board of Viewers of Cambria County may ascertain which governmental agency is actually responsible for the damage sustained by relocation of Barnett Street (commonly known as Route 11011, Spur 6).

City of Johnstown

By: Norman Kewenauer City Solicitor
Petitioners

STATE OF PENNSYLVANIA:

SS:

COUNTY OF CAMBRIA:

Before me, a Notary Public in and for said County and State, personally appeared NORMAN KRUMENACKER, who, being duly sworn according to law, deposes and says that he is the Petitioner named in the foregoing Petition and that the statements therein set forth are true and correct to the best of his knowledge, information, and belief.

Norman Krumenacker

Sworn and subscribed to before me

this 2nd day of Oct., 1957.

Robert Heine
Notary Public

Johnstown, Cambria County, Pa.
My Commission Expires March 7, 1959

IN RE: PETITION FOR THE
APPOINTMENT OF VIEWERS TO
ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGH-
TENING, ELEVATING AND RE-
LOCATING OF BARNETT STREET,
COMMONLY KNOWN AS ROUTE 11011,
SPUR 6, IN THE CITY OF JOHNS-
TOWN, COUNTY OF CAMBRIA AND
STATE OF PENNSYLVANIA.

(IN THE COURT OF QUARTER SESSIONS
) OF CAMBRIA COUNTY
(PENNSYLVANIA
)

) NO. _____ JUNE TERM, 1957

DECREE

AND NOW, this 21 day of October, 1957, on motion of Norman Krumenacker, City Solicitor for the City of Johnstown, Pennsylvania, IT IS ORDERED AND DECREED that the County of Cambria, Pennsylvania and the Pennsylvania Department of Highways be joined in the Petition entered to the above term and number.

BY THE COURT:

Griffith J.

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN RE: PETITION FOR THE
APPOINTMENT OF VIEWERS TO
ASSESS DAMAGES OCCASIONED
BY THE WIDENING, STRAIGHT-
ENING, ELEVATING AND RE-
LOCATING OF BARNETT STREET
COMMONLY KNOWN AS ROUTE 1101,
SPUR 6, IN THE CITY OF JOHN-
STOWN, COUNTY OF CAMBRIA AND
STATE OF PENNSYLVANIA.

3050

PETITION OF THE DEPARTMENT OF
HIGHWAYS FOR RULE TO SHOW CAUSE

Filed - 11-29-57 - J.C.W.

Myers, Taylor & Peduzzi
ATTORNEYS AT LAW
213 S. CENTER STREET - OPPOSITE COURT HOUSE
Ebensburg, Pennsylvania

AND NOW, November 15, 1957, service of the within petition and Rule, together with a copy thereof is hereby accepted and the issuance of the Rule is hereby waived.

James

Thomas Tommaso
Collector, City of Johnstown

*Was March 24-1958
After agreement with the Commissioner
the Rule has been waived in whole
Respect. By the Court
By the Court
By the Court*

Filed - 3-24-58 - J.C. 2000

IN RE: PETITION FOR THE APPOINTMENT OF VIEWERS TO ASSESS DAMAGES OCCASIONED BY THE WIDENING, STRAIGHTENING, ELEVATING AND RELOCATING OF BARNETT STREET, COMMONLY KNOWN AS ROUTE 1101, SPUR 6, IN THE CITY OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY PENNSYLVANIA

NO. 1 JUNE TERM, 1957, ROAD DOCKET

PETITION OF THE DEPARTMENT OF HIGHWAYS FOR RULE TO SHOW CAUSE

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of the Department of Highways of the Commonwealth of Pennsylvania respectfully represents:

-1-

That on October 21, 1957, the City of Johnstown of the County of Cambria and State of Pennsylvania, through its solicitor, presented a petition to your Honorable Court to join your petitioner and the County of Cambria in the above action as additional defendants in order that the Board of Viewers may ascertain which governmental agency is actually responsible for the damages resulting from the relocation of Barnett Street, commonly known as Route 1101, Spur 6, the relocation of which is the subject of the above captioned action.

-2-

On the above mentioned date, your Honorable Court ordered and decreed that the County of Cambria and your petitioner be joined in the petition entered to the above number and term.

-3-

That your petitioner submitted to the City of Johnstown a plan showing the proposed construction and change of lines, grades and widths of Barnett Street, which plan was approved July 23, 1954, by the Chief Engineer of the Department of Highways.

-4-

Upon presentation of the said plan, the said City of Johnstown by Ordinance No. 3112 duly passed and adopted at a special meeting of the City

Council held on August 31, 1954, adopted the plan for the change of Barnett Street as submitted by your petitioner as the official plan of Barnett Street.

-5-

That your petitioner is not responsible for any damages resulting from the change of the lines, grades and widths of Barnett Street under the provisions of Article V, Section 523 of the Act of June 1, 1945, P. L. 1242, as amended, 36 P. S. 670-523, which is quoted as follows:

"The department shall not change the width, lines, or grades of the streets taken over under the provisions of any act of Assembly, or any section thereof, without the consent of the city, evidenced by an ordinance duly passed in accordance with laws applicable thereto. In the event of any change of width, lines or grades, in accordance with the provisions of this section, the city shall be responsible for the payment of any damages which may be occasioned thereby, such damages to be ascertained and paid in accordance with the laws applicable thereto: Provided, however, that nothing contained herein shall prevent the county or the Commonwealth, or both, from contributing to or sharing in the payment of the damages occasioned by any such change of width, lines or grades of a street under the terms of an agreement entered into by the interested parties."

-6-

That Section 2 of the said Ordinance passed and adopted by the said City of Johnstown as aforesaid which provides as follows:

"The City of Johnstown, Pennsylvania, hereby assumes responsibility for the removal of all nonutility structures where necessary for the opening or improvement in accordance with the said plan."

is construed by the said City of Johnstown as limiting its liability for damages for the removal of the said nonutility structures, as set forth in its petition to join additional defendants, whereas, it is the intent of such provision to place the responsibility for the removal of such structures on the said City of Johnstown in addition to its responsibility to compel the public utility companies to remove their own structures and in addition to the said City's responsibility for the payment of all damages.

-7-

That in view of the adoption by the said City of Johnstown of the plan for the change of Barnett Street as submitted to it by your petitioner

and in view of the provisions of the Act of Assembly quoted above, your petitioner is not liable for any damages resulting from the changes made in Barnett Street and your petitioner has not indicated in any manner that it is willing to contribute or share in the payment of said damages nor has your petitioner entered into any agreement to that effect with the said City of Johnstown or the County of Cambria or both.

-8-

That the Board of Viewers appointed to assess damages in the present action does not have the authority to determine which governmental agency is legally responsible for the damages sustained by the relocation of Barnett Street as alleged in the petition of the said City of Johnstown to join additional defendants. The Board of Viewers has power only to determine and assess the damages and cannot make a determination as to which governmental agency is legally responsible for the same, in the event of a dispute arising as to legal liability, as has arisen in this case.

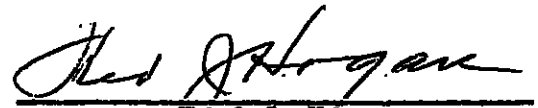
WHEREFORE, your petitioner prays your Honorable Court for a rule upon the said City of Johnstown to show cause, if any it has, why the Department of Highways of the Commonwealth of Pennsylvania should not be dropped or discharged as an additional defendant in the above captioned matter and in the meanwhile all proceedings to stay.

DEPARTMENT OF HIGHWAYS OF THE
COMMONWEALTH OF PENNSYLVANIA

By Thos. J. Hogan
District Engineer

COMMONWEALTH OF PENNSYLVANIA |
 | : SS:.
COUNTY OF BLAIR |

Personally appeared before me, a notary public in and for said County and State, Fred J. Hogan, who being sworn according to law, deposes and says that he is the District Engineer for the Department of Highways of the Commonwealth of Pennsylvania and that the matters set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief.



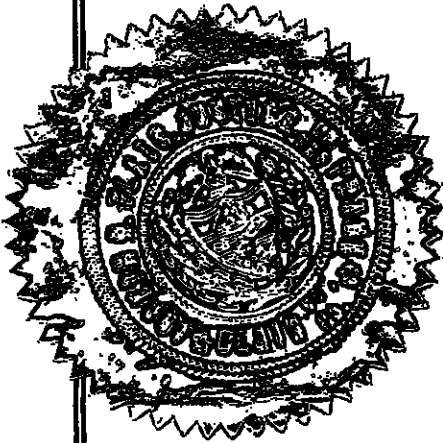
Fred J. Hogan

Sworn and subscribed before me
this 13 day of November, 1957.



Notary Public

My Commission expires: JAN 1962



ORDER OF COURT

AND NOW, this 13 day of November, 1957, upon consideration of the annexed petition and upon motion of Edward F. Peduzzi, Attorney for your petitioner, a rule is hereby granted on the City of Johnstown of the County of Cambria and State of Pennsylvania to show cause, if any it has, why the Department of Highways of the Commonwealth of Pennsylvania should not be dropped or discharged as an additional defendant in the above captioned action.

Notice of presentation of the annexed petition and the granting of the rule to be given to all parties in interest.

All proceedings to stay in the meanwhile.

Rule returnable the 2 day of ^{December} ~~November~~, 1957.

By the Court,

McDonald
J.

November 18, 1957

In Re: Petition for the Appoint-
ment of Viewers to assess dama-
ges occasioned by the widening,
straightening, elevating and
relocating of Barnett Street,
commonly known as Route 11011,
Spur 6, in the city of Johnstown,
County of Cambria and State of
Pennsylvania.

In the Court of Quarter
Sessions of Cambria County,
Pennsylvania

No. 1 June Term, 1957, Road
Docket

NOTICE OF CONTINUED HEARING

The Department of Highways of the Commonwealth of Pennsylvania has petitioned the Court of Common Pleas of Cambria County. For rule to show cause why the Commonwealth of Pennsylvania should not be dismissed as a party in the appointment of Viewers to assess damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

The Rule was made returnable on December 2, 1957 and the Court has ordered all proceedings to stay until disposition is made of this Rule.

Conforming with this rule, please be advised that the continued hearing re damages to the land and premises of Samuel Speranza scheduled Tuesday, November 26, 1957 at 1:00 P. M. E. S. T., is hereby cancelled and you will be advised of the date of a future rehearing after above rule is returned by the Court of Quarter Sessions of Cambria County, Pennsylvania.

Fred W. Clafin
Fred W. Clafin, Chairman
Mahlon Baumgardner
Theodore Hunt

Viewers

FWC:ljb

May 5, 1958

IN RE: Petition for the Appointment of Viewers to assess damages occasioned by the widening, Straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

In the Court of Quarter Sessions of Cambria County,

No. 1 June Term, 1957
Road Docket

NOTICE OF CONTINUED HEARING

The Court of Cambria County has ruled that the City of Johnstown is responsible for the damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

Conforming with this ruling, please be advised that the continued hearing re damages to the land and premises of Samuel Speranza is scheduled for Friday, May 23, 1958 at 10:00 A.M. D.S.T. in the Council Chambers of the City of Johnstown.

Fred W. Clafin
Fred W. Clafin, Chairman
Mahlon Baumgardner
Theodore Hunt

Viewers

FWC:jdg

Copies to:

Mahlon Baumgardner Theodore Hunt County Commissioners
Clerk of Courts Prothonotary Mr. & Mrs. Speranza
A. W. Krueger Atty. Krumenacker Atty. DiFrancesco

In Re: Petition for the appointment of viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barnett St., commonly known as Route 1101, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania

Road Docket No. 1
June Sessions, 1957

vs

Samuel W. Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, city of Johnstown, Cambria County, Pennsylvania

NOTICE TO VIEW

We, the undersigned viewers, appointed by the above named Court for the purpose of viewing and acting upon petition of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania to assess damages due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 1101, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

The Viewers will meet at the place of beginning at 10:00 A. M. D. S. T. on Wednesday, May 29, 1957, for the purpose of performing the duties of our appointment, at which time and place all interested parties may appear and be heard.

Viewers

Fred W. Clafflin, Chairman
Mahlon Baumgardner
Theodore Hunt

May 10, 1957

November 8, 1957

In Re: Petition for the appointment
of Viewers to assess damages occasioned
by the widening, straightening, elevating
and relocating of Barnett St., commonly
known as Route 11011, Spur 6, in the city
of Johnstown, County of Cambria and State
of Pennsylvania

Road Docket No. 1

June Sessions, 1957

vs

Samuel M. Speranza and Lena Speranza,
husband and wife, owners of Lot #12,
westerly side of Estey Street, Eighth
Ward, city of Johnstown, Cambria County,
Pennsylvania

NOTICE OF CONTINUED HEARING

Please be advised that there will be a continued hearing in the Council Chambers at City Hall, Johnstown, Pennsylvania on Tuesday, November 26, 1957 at 1:00 P. M. E. S. T., to assess damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

Fred W. Claflin
Fred W. Claflin, Chairman
Mahlon Baumgardner
Theodore Hunt

Viewers

FWC:ljb

In Re: Petition for the appointment of Viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barnett St., commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania

vs

Samuel M. Speranza and Lena Speranza, husband and wife, owners of Lot#12, westerly side of Estey Street, Eighth Ward, city of Johnstown, Cambria County, Pennsylvania

(In the Court of Quarter Sessions of Cambria County

Filed - 7-3-58
J. CW

(Road Docket No. 1

(June Sessions, 1957

REPORT OF VIEWERS

To the Honorable, the Judges of the above named Court, we the undersigned Viewers, appointed by the annexed order of the Court to view and assess damages in the matter of widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria, and the State of Pennsylvania, respectfully report:

That we have been duly sworn or affirmed as members of the Permanent Board of Viewers of Cambria County, as shown by the records of the Court; that having given due public notice of the time and place of meeting, by posting notices as required by law on the premises of Samuel M. Speranza and Lena Speranza, husband and wife, and by service of such notice on the County Commissioners of Cambria County; Mr. Breneman, Pennsylvania State Department of Highways; Mr. Norman Krumenacker, Solicitor for the city of Johnstown; Attorney Samuel DiFrancesco, Attorney for the Speranza's; Clerk of Courts and Prothonotary of the Court of Quarter Sessions, Cambria County; that we met in accordance with the notice given on the 29th day of May, 1957, at 10:00 A.M., D.S.T. and proceeded with the duties of our appointment and viewed the premises and the relocation and change in the

grade of Barnett Street along the rear line of the Speranza property. The following interested persons were present: Mr. Krumencacker, Jr., Attorney for the city of Johnstown; Mr. Samuel DiFrancesco, Attorney for Mr. Speranza; Mr. Speranza and the Viewers.

On July 12, 1957, a hearing was called, and all parties concerned were at the Johnstown City Hall. On account of an emergency call from Ebensburg, the city officials present left the meeting before any business was transacted, and this meeting was postponed until July 24, 1957.

At 10:00 A.M., D.S.T., July 24, 1957, a hearing was held in the Johnstown City Hall. Attorney Krumenacker, Mayor Walter Rose, and the Viewers were present. At this meeting considerable discussion was made in an effort to determine the party responsible for the damage to the Speranza property, and the Viewers agreed to hold a future hearing.

On November 7, 1957, a continued hearing was held at City Hall, Johnstown; attended by Attorney Shettig, for the County of Cambria; Attorney Deckman, for the Pennsylvania Department of Highways; Attorney Krumenacker, for the city of Johnstown; and Attorney DiFrancesco, for Mr. Speranza. Mr. Speranza and Mr. T. Elmer Mock were called as witnesses, and Mr. Mock was disqualified as not being able to evaluate the Speranza property before Barnett Street was built. At this hearing, all parties agreed that the County of Cambria was not a party in the damages, and a decision as to the damage liability of the Pennsylvania Department of Highways will be determined at a later date by the Court of Quarter Sessions.

A continued hearing was held in the Johnstown City Hall on May 23, 1958, after all parties concerned agreed that the city of

Johnstown was solely responsible for damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, city of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating, and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

On Saturday, May 24, the Viewers in conference at Mr. Baumgardner's residence in Ebensburg after thorough consideration of the damages sustained by Mr. Speranza and his wife Lena Speranza due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6 in the city of Johnstown, County of Cambria and State of Pennsylvania, have agreed that the damage to the garage, and access thereto, is \$1728 and for loss of use of the garage for ten months--\$60. The cost of building a gutter along this property to avoid excess storm water on the Speranza property--\$120. The Viewers hereby assessed total damages to Samuel Speranza and Lena Speranza at one thousand nine hundred and eight dollars (\$1908), and the Viewers assess no benefits.

Witness our hands and seals this twenty-fourth day of June, 1958.

F. McLaughlin Chairman

Arthur Baumgardner

Theodore Hunt

Viewers

In Re: Petition for the appointment
of Viewers to assess damages occasioned
by the widening, straightening, elevating
and relocating of Barnett St., commonly
known as Route 11011, Spur 6, in the city
of Johnstown, County of Cambria and State
of Pennsylvania

vs

Samuel M. Speranza and Lena Speranza,
husband and wife, owners of Lot #12,
westerly side of Estey Street, Eighth
Ward, city of Johnstown, Cambria County,
Pennsylvania

: In the Court of Quarter
: Sessions of Cambria
: County
:
:
:
: Road Docket No. 1
:
: June Sessions, 1957
:
:

CAMBRIA COUNTY in Account with F. W. Claflin, Mahlon Baumgardner, and
Theodore Hunt.

F. W. Claflin

1957		
May 11	Prepared Notices to View - 1 day	\$ 12.00
	Stenographer, Stationery, etc.	3.20
" 13	Posting Notices - 1 day	12.00
	Mileage - 3 miles @ \$.10	.30
" 29	Making View - 1 day	12.00
	Mileage - 3 miles @ \$.10	.30
July 1	Prepared Notices for Hearing - 1 day	12.00
	Stenographer, Stationery, etc.	2.40
" 12	Hearing at Johnstown City Hall-1 day	12.00
	Mileage - 6 miles @ \$.10	.60
" 15	Prepared Notices for Rehearing - 1 day	12.00
	Stenographer, Stationery, etc.	1.80
" 24	Continued Hearing at Johnstown City Hall - 1 day	12.00
	Mileage - 6 miles @ \$.10	.60
Oct. 19	Prepared Notices for Continued Hearing 1 day	12.00
	Stenographer, Stationery, etc.	2.20
Nov. 7	Continued Hearing at Johnstown City Hall - 1 day	12.00
	Auto - 6 miles @ \$.10	.60
1958		
May 12	Prepared Notices for Continued Hearing - 1 day	12.00
	Stenographer, Stationery, etc.	2.20
" 23	Continued Hearing at Johnstown City Hall - 1 day	12.00
	Auto - 6 miles @ \$.10	.60
" 24	Conference at Mr. Baumgardner's residence, Ebensburg, Pa.-1 day	12.00
	Mileage - 44 miles @ \$.10	4.40
July 2	Exhibit of Schedule F. W. Claflin's Office 212 Tioga Street Johnstown, Penna.	12.00

July 3	Mileage - 2 miles @ \$.10	.20	
	Filing Report - 1 day	12.00	
	Mileage - 44 miles @ \$.10	4.40	
			<u>\$191.80</u>

Mahlon Baumgardner
1957

May 29	Making View - 1 day	\$ 12.00	
	Mileage - 44 miles @ \$.10	4.40	
July 12	Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 40 miles @ \$.10	4.00	
" 24	Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 40 miles @ \$.10	4.00	
Nov. 7	Continued Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 40 miles @ \$.10	4.00	
1958			
May 23	Continued Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 40 miles @ \$.10	4.00	
" 24	Conference at Mr. Baumgardner's residence, Ebensburg, Pa. - 1 day	12.00	
July 2	Exhibit of Schedule F. W. Claflin's Office 212 Tioga Street Johnstown, Penna. - 1 day	12.00	
	Mileage - 43 miles @ \$.10	4.30	
			<u>\$108.70</u>

Theodore Hunt

1957			
May 29	Making View - 1 day	\$ 12.00	
	Mileage - 20 miles @ \$.10	2.00	
July 12	Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 16 miles @ \$.10	1.60	
" 24	Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 16 miles @ \$.10	1.60	
Nov. 7	Continued Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 16 miles @ \$.10	1.60	
1958			
May 23	Continued Hearing at Johnstown City Hall - 1 day	12.00	
	Mileage - 16 miles @ \$.10	1.60	
" 24	Conference at Mr. Baumgardner's residence, Ebensburg, Pa. - 1 day	12.00	
	Mileage - 26 miles @ \$.10	2.60	
July 2	Exhibit of Schedule F. W. Claflin's Office 212 Tioga Street Johnstown, Penna. - 1 day	12.00	
	Mileage - 43 miles @ \$.10	4.30	
			<u>\$ 99.30</u>

The above is a true and correct Statement of Costs due to the Viewers in the Case of widening, straightening, elevating and relocating of Barnett St., commonly known as Route 11011, Spur 8, in the city of Johnstown, County of Cambria and State of Pennsylvania vs. Samuel M. Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, city of Johnstown, Cambria County, Pennsylvania, the original of which is filed with the report in the Court of Quarter Sessions of Cambria County, July 2, 1958.

Frank C. Lefler

Henry B. Brumbyard

Theodore Hunt

Viewers

In Re: Petition for the appointment of viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barrett St., commonly known as Route 1101, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania

Road Docket No. 1

June Sessions, 1957

vs

Samuel M. Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, city of Johnstown, Cambria County, Pennsylvania

NOTICE TO VIEW

We, the undersigned viewers, appointed by the above named Court for the purpose of viewing and acting upon petition of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania to assess damages due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 1101, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

The Viewers will meet at the place of beginning at 10:00 A. M. D. S. T. on Wednesday, May 29, 1957, for the purpose of performing the duties of our appointment, at which time and place all interested parties may appear and be heard.

Viewers

Fred W. Clafin, Chairman
Kahlon Baumgardner
Theodore Hunt

May 19, 1957

Commonwealth of Pennsylvania, }
County of Cambria } SS.

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the 8th day of April A. D. 1957,

before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of _____, in the said County, setting forth that they labor under inconvenience for want of an assessment of damages

~~for a highway to lead from~~

In the eighth ward of the City of Johnstown bounded and described

as follows: FRONTING fifty six and thirty five hundredths (56.35) feet on Esty St., and extending back between parallel lines one

hundred eighty nine and thirty nine hundredths (189.39) feet on the

Westerly side and one hundred eighty four and seventy three hundredths (184.73) feet on the Easterly side to Barnett St; having Lot No.

10 on the hereinafter mentioned Plan of Lots on the Easterly side

and Lot No. 12 on the Westerly side; being marked, known and numbered on the Jostph F. Mayer Plan of Lots as surveyed by S. E.

Dickey and Company, October 24, 1913, revised July 20, 1915, and

recorded in the office of the Recorder of Deeds in and for Cambria County in Plat Book Vol. 1, page 152, as Lot No. 11, and also in-

cluding a five (5) foot strip along Esty Street as added by Ordinance

No. 283 of the said City of Johnstown. BEING th^e/same lot or piece of ground which Donald H. Bradish et ux., by their deed dated the

26th day of January, 1952, and recorded in the Office of the Recorder

of Deeds, in and for Cambria County, Pa., on January 28, 1952, in Deed Book Vol. 628, at page 457, granted and conveyed to Samuel M. Speranza and Lena Speranza, husband and wife.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law. The Court, upon due consideration had of the premises, do order and appoint

Fred W. Claflin

surveyor, and

Mahlon Baumgardner and Robert Mayer

viewers, to view the ground proposed for said road, and if they view the same, and shall agree that there is occasion for such road, they shall proceed to lay out the same, having respect to the shortest distance and the best ground for a road, and in such manner as shall do the least injury to private property, and also be as far as practicable, agreeable to the desires of the petitioners, and that they make a report of their proceedings to the next Court of Quarter Sessions to be held for said County, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances, and references to the improvements through which it may pass.

By the Court. /s/ McDonald, J.

Attest:

Joseph C. Hill, Clerk

Road Docket

NO. 1 June SESSSIONS, 19 57

Order to view In Re; Petition for
the appointment of viewers to
assess damages occasioned by the
widening straightening, elevating
and relocating of Barnett St.,
commonly known as Route 11011,
Spur 6, in the city of Johnstown
County of Cambria and State of
Pennsylvania.

Fred W. Claffin

Mahlon Baumgardner

Robert Mayer

Viewers

Clerk Joseph C. Wess,
Clerk of Courts.

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the person or persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report at the next term of said Court, and in the said report shall state particularly: First, who of them were present at the view, second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

~~Filed~~ July 3, 1957

Now Jan. 6 1959 the
within Viewer's Report is
Approved Niss-

By the Court
McDonald J.

In Re: Petition for the appointment
of Viewers to assess damages occasioned
by the widening, straightening, elevating
and relocating of Barnett St., commonly
known as Route 11011, Spur 6, in the city
of Johnstown, County of Cambria and State of
Pennsylvania

vs

Samuel M. Speranza and Lena Speranza,
husband and wife, owners of Lot #12,
westerly side of Estey Street, Eighth
Ward, city of Johnstown, Cambria County,
Pennsylvania

In the Court of Quarter
Sessions of Cambria
County

Road Docket No. 1

June Sessions, 1957

IN RE: PETITION FOR THE APPOINTMENT OF VIEWERS TO ASSESS DAMAGES OCCASIONED BY THE WIDENING, STRAIGHTENING, ELEVATING AND RELOCATING OF BARNETT STREET, COMMONLY KNOWN AS ROUTE 1101, SPUR 6, IN THE CITY OF JOHNSTOWN, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY PENNSYLVANIA

NO. 1 JUNE TERM, 1957, ROAD DOCKET

PETITION OF THE DEPARTMENT OF HIGHWAYS FOR RULE TO SHOW CAUSE

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of the Department of Highways of the Commonwealth of Pennsylvania respectfully represents:

-1-

That on October 21, 1957, the City of Johnstown of the County of Cambria and State of Pennsylvania, through its solicitor, presented a petition to your Honorable Court to join your petitioner and the County of Cambria in the above action as additional defendants in order that the Board of Viewers may ascertain which governmental agency is actually responsible for the damages resulting from the relocation of Barnett Street, commonly known as Route 1101, Spur 6, the relocation of which is the subject of the above captioned action.

-2-

On the above mentioned date, your Honorable Court ordered and decreed that the County of Cambria and your petitioner be joined in the petition entered to the above number and term.

-3-

That your petitioner submitted to the City of Johnstown a plan showing the proposed construction and change of lines, grades and widths of Barnett Street, which plan was approved July 23, 1954, by the Chief Engineer of the Department of Highways.

-4-

Upon presentation of the said plan, the said City of Johnstown by Ordinance No. 3112 duly passed and adopted at a special meeting of the City

Council held on August 31, 1954, adopted the plan for the change of Barnett Street as submitted by your petitioner as the official plan of Barnett Street.

-5-

That your petitioner is not responsible for any damages resulting from the change of the lines, grades and widths of Barnett Street under the provisions of Article V, Section 523 of the Act of June 1, 1945, P. L. 1242, as amended, 36 P. S. 670-523, which is quoted as follows:

"The department shall not change the width, lines, or grades of the streets taken over under the provisions of any act of Assembly, or any section thereof, without the consent of the city, evidenced by an ordinance duly passed in accordance with laws applicable thereto. In the event of any change of width, lines or grades, in accordance with the provisions of this section, the city shall be responsible for the payment of any damages which may be occasioned thereby, such damages to be ascertained and paid in accordance with the laws applicable thereto: Provided, however, that nothing contained herein shall prevent the county or the Commonwealth, or both, from contributing to or sharing in the payment of the damages occasioned by any such change of width, lines or grades of a street under the terms of an agreement entered into by the interested parties."

-6-

That Section 2 of the said Ordinance passed and adopted by the said City of Johnstown as aforesaid which provides as follows:

"The City of Johnstown, Pennsylvania, hereby assumes responsibility for the removal of all nonutility structures where necessary for the opening or improvement in accordance with the said plan."

is construed by the said City of Johnstown as limiting its liability for damages for the removal of the said nonutility structures, as set forth in its petition to join additional defendants, whereas, it is the intent of such provision to place the responsibility for the removal of such structures on the said City of Johnstown in addition to its responsibility to compel the public utility companies to remove their own structures and in addition to the said City's responsibility for the payment of all damages.

-7-

That in view of the adoption by the said City of Johnstown of the plan for the change of Barnett Street as submitted to it by your petitioner

and in view of the provisions of the Act of Assembly quoted above, your petitioner is not liable for any damages resulting from the changes made in Barnett Street and your petitioner has not indicated in any manner that it is willing to contribute or share in the payment of said damages nor has your petitioner entered into any agreement to that effect with the said City of Johnstown or the County of Cambria or both.

-8-

That the Board of Viewers appointed to assess damages in the present action does not have the authority to determine which governmental agency is legally responsible for the damages sustained by the relocation of Barnett Street as alleged in the petition of the said City of Johnstown to join additional defendants. The Board of Viewers has power only to determine and assess the damages and cannot make a determination as to which governmental agency is legally responsible for the same, in the event of a dispute arising as to legal liability, as has arisen in this case.

WHEREFORE, your petitioner prays your Honorable Court for a rule upon the said City of Johnstown to show cause, if any it has, why the Department of Highways of the Commonwealth of Pennsylvania should not be dropped or discharged as an additional defendant in the above captioned matter and in the meanwhile all proceedings to stay.

DEPARTMENT OF HIGHWAYS OF THE
COMMONWEALTH OF PENNSYLVANIA

By /s/ Fred J. Hogan

District Engineer

COMMONWEALTH OF PENNSYLVANIA §
: SS:
COUNTY OF BLAIR §

Personally appeared before me, a notary public in and for said County and State, Fred J. Hogan, who being sworn according to law, deposes and says that he is the District Engineer for the Department of Highways of the Commonwealth of Pennsylvania and that the matters set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief.

/s/ Fred J. Hogan
Fred J. Hogan

Sworn and subscribed before me
this 13 day of November, 1957.

/s/ Joseph R. Flaig
Notary Public

(J. P.
SEAL)

My Commission expires: Jan. 1962

ORDER OF COURT

AND NOW, this 13 day of November, 1957, upon consideration of the annexed petition and upon motion of Edward F. Peduzzi, Attorney for your petitioner, a rule is hereby granted on the City of Johnstown of the County of Cambria and State of Pennsylvania to show cause, if any it has, why the Department of Highways of the Commonwealth of Pennsylvania should not be dropped or discharged as an additional defendant in the above captioned action.

Notice of presentation of the annexed petition and the granting of the rule to be given to all parties in interest.

All proceedings to stay in the meanwhile.

December
Rule returnable the 2 day of November, 1957.

By the Court,

/s/ McDonald

IN RE: PETITION FOR THE	(IN THE COURT OF QUARTER SESSIONS
APPOINTMENT OF VIEWERS TO)	OF CAMBRIA COUNTY
ASSESS DAMAGES OCCASIONED	(PENNSYLVANIA
BY THE WIDENING, STRAIGHT-)	
TENING, ELEVATING AND RE-	(
LOCATING OF BARNETT STREET,)	
COMMONLY KNOWN AS ROUTE 1101,	(
SPUR 6, IN THE CITY OF JOHNS-)	
TOWN, COUNTY OF CAMBRIA AND	(
STATE OF PENNSYLVANIA.)	NO. _____ JUNE TERM, 1957

PETITION TO JOIN ADDITIONAL DEFENDANTS

The Petition of Norman Krumenacker, City Solicitor for the City of Johnstown, Cambria County, Pennsylvania, respectfully represents:

1. That paragraph five of the Petition for the Appointment of Viewers sets forth the following:

"(5) That your Petitioners were greatly injured and damaged by reason of the said alterations and construction of Barnett Street by the City of Johnstown for public purposes, which damages have not been ascertained or paid."

2. That the City of Johnstown was the only governmental agency which was ordered to defend said action.

3. That the Petitioners assumed that the City of Johnstown was responsible for the damage they sustained as a result of the changes on Barnett Street.

4. That the City of Johnstown is not responsible for any damage sustained by the Petitioners as a result of the changes of Barnett Street.

5. That the changes made to Barnett Street were made by the Pennsylvania Department of Highways.

6. That the City of Johnstown agreed as follows:

"The City of Johnstown, Pennsylvania, hereby assumes responsibility for the removal of all non-utility structures where necessary for the opening or improvement in accordance with the said plan."

7. That the City of Johnstown is informed and therefore avers that there is a contract in existence between Cambria County, Pennsylvania, and the Pennsylvania Department of Highways in regard to Barnett Street and all other approaches to what is known as the "Easy Grade."

8. That the City of Johnstown is not responsible for the damage sustained by the original petitioners but allege that either the County of Cambria or the Pennsylvania Department of Highways is responsible for damage sustained by your original petitioners.

Your petitioners therefore prays your Honorable Court to enter an Order ordering both the County of Cambria, Pennsylvania, and the Pennsylvania Department of Highways to defend the action here pending, so that the Board of Viewers of Cambria County may ascertain which governmental agency is actually responsible for the damage sustained by relocation of Barnett Street (commonly known as Route 11011, Spur 6).

Petitioners

STATE OF PENNSYLVANIA:

SS:

COUNTY OF CAMBRIA:

Before me, a Notary Public in and for said County and State, personally appeared NORMAN KRUMENACKER, who, being duly sworn according to law, deposes and says that he is the Petitioner named in the foregoing Petition and that the statements therein set forth are true and correct to the best of his knowledge, information, and belief.

Sworn and subscribed to before me
this _____ day of _____, 1957.

Notary Public

BARNETT STREET VIEW

Report continued hearing at City Hall--10:00 A. M., November 7, 1957.

Present at meeting:

Atty. Shettig - for County
Atty. Deckman - for Pennsylvania Department of Highways
Atty. Krumenacker - for City of Johnstown
Atty. DiFrancesco - for Mr. Speranza

1st Witness - Mr. Speranza

2nd Witness - T. Elmer Mock -- This witness disqualified
as not being able to evaluate property
before Barnett Street was built, necessi-
tating another rehearing to be held at
City Hall at 1:00 P. M., Tuesday, November
26, 1957.

Meeting adjourned: 11:00 A. M.

October 21, 1957

In Re: Petition for the appointment
of Viewers to assess damages occasioned
by the widening, straightening, elevating
and relocating of Barnett St., commonly
known as Route 11011, Spur 6, in the city
of Johnstown, County of Cambria and State
of Pennsylvania

0 Road Docket No. 1

0 June Sessions, 1957

vs

Samuel M. Speranza and Lena Speranza,
husband and wife, owners of Lot #12,
westerly side of Estey Street, Eighth
Ward, city of Johnstown, Cambria County,
Pennsylvania

NOTICE OF CONTINUED HEARING

Please be advised that there will be a continued hearing in
the Council Chambers at City Hall, Johnstown, Pennsylvania on
Thursday, November 7, 1957 at 10:00 A. M. E. S. T. to assess damages,
to the land and premises of Samuel Speranza and Lena Speranza,
husband and wife, owners of Lot #12, westerly side of Estey Street,
Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to
the widening, straightening, elevating and relocating of Barnett
Street, commonly known as Route 11011, Spur 6, in the city of
Johnstown, County of Cambria and State of Pennsylvania.

Fred W. Claflin, Chairman
Mahlon Baumgardner
Theodore Hunt

Viewers

FWC:ljb

November 18, 1957

In Re: Petition for the Appointment of Viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania. In the Court of Quarter Sessions of Cambria County, Pennsylvania
No. 1 June Term, 1957,
Road Docket

NOTICE OF CONTINUED HEARING

The Department of Highways of the Commonwealth of Pennsylvania has petitioned the Court of Common Pleas of Cambria County. For rule to show cause why the Commonwealth of Pennsylvania should not be dismissed as a party in the appointment of Viewers to assess damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

The Rule was made retrunable on December 2, 1957 and the Court has ordered all proceedings to stay until disposition is made of this Rule.

Conforming with this rule, please be advised that the continued hearing re damages to the land and premises of Samuel Speranza scheduled Tuesday, November 26, 1957 at 1:00 P. M. E. S. T., is hereby cancelled and you will be advised of the date of a future rehearing after above rule is returned by the Court of Quarter Sessions of Cambria County, Pennsylvania.

May 23 -

Fred W. Claflin, Chairman
Mahlon Baumgardner
Theodore Hunt
Vi
Viewers

FWC:ljb

Copies to:

✓ Mahlon Baumgardner Theodore Hunt ✓ County Commissioners
✓ Clerk of Courts ✓ Prothonotary ✓ Mr. & Mrs. Speranza
✓ A. W. Krueger ✓ Atty. Krumenacker ~~Mr. Breneman~~
Atty. Deckman Atty. Peduzzi ✓ Atty. DiFrancesco

June 22, 1957

In Re: Petition for the appointment of Viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barnett St., commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania

Road Docket No. 1
June Sessions, 1957

vs

Samuel M. Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, city of Johnstown, Cambria County, Pennsylvania

NOTICE OF HEARING

Date of hearing advanced from June 27, 1957 to July 12, 1957. *Canceled*

Please be advised that there will be a hearing in the Council Chambers at City Hall, Johnstown, Pennsylvania on Thursday, July 12, 1957 at 10:00 A. M. D. S. T. to assess damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

July 12 Canceled
Fred W. Claflin
Mahlon Baumgardner
Theodore Hunt

Viewers

FWC:ljb

cc: - Mahlon Baumgardner
- Theodore Hunt
- Atty. Samuel R. DiFrancesco
- Atty. Arnold D. Smorto
- Atty. Norman A. Krumenacker, Jr.
- Mr. Breneman

- Mr. and Mrs. Speranza
- Clerk of Courts
- County Commissioners
- Prothonotary
- A. W. Krueger

July 12
July 24th 1957

✓
29th May = June

CONTINUED HEARING CITY HALL,

10:00 A.M. July 24, 1957

Meeting opened: 10:15 A. M.

Present: Norman Krumenacker
Samuel DiFrancesco (and two witnesses)
Mayor Rose
Viewers

Discussion between the attorneys re responsibility for damage to the Speranza property. State Highway Department claims no responsibility and city of Johnstown claims no responsibility.

Mr. Krumenacker will contact Court at Ebensburg, July 25 and get further information regarding this View.

Meeting adjourned: 11:00 A. M.

Post. Sat. May 24

May 5, 1958

IN RE: Petition for the Appointment of Viewers to assess damages occasioned by the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

In the Court of Quarter Sessions of Cambria County,

No. 1 June Term, 1957,
Road Docket

NOTICE OF CONTINUED HEARING

The Court of Cambria County has ruled that the City of Johnstown is responsible for the damages to the land and premises of Samuel Speranza and Lena Speranza, husband and wife, owners of Lot #12, westerly side of Estey Street, Eighth Ward, City of Johnstown, Cambria County, Pennsylvania due to the widening, straightening, elevating and relocating of Barnett Street, commonly known as Route 11011, Spur 6, in the city of Johnstown, County of Cambria and State of Pennsylvania.

Conforming with this ruling, please be advised that the continued hearing re damages to the land and premises of Samuel Speranza is scheduled for Friday, May 23, 1958 at 10:00 A.M. D.S.T. in the Council Chambers of the City of Johnstown.

Fred W. Claflin
Fred W. Claflin, Chairman
Mahlon Baumgardner
Theodore Hunt

Viewers

PWC:jdg

Copies to:

- ✓ Mahlon Baumgardner ✓ Theodore Hunt ✓ County Commissioners
- ✓ Clerk of Courts ✓ Prothonotary ✓ Mr. & Mrs. Speranza
- ✓ A. E. Krueger ✓ Atty. Krumenacker ✓ Atty. DiFrancesco

In Re: Petition for the appointment
of Viewers to assess damages occasioned
by the widening, straightening, elevating
and relocating of Bennett St., commonly
known as Route 11011, Spur 8, in the city
of Johnstown, County of Cambria and State
of Pennsylvania

vs

Samuel H. Speranza and Lena Speranza,
husband and wife, owners of Lot 412,
westerly side of Estey Street, Eighth
Ward, city of Johnstown, Cambria County,
Pennsylvania

:
:
: In the Court of Quarter
: Sessions of Cambria
: County

:
:
: Road Hooket No. 1
: June Sessions, 1967

Please be advised there will be an Exhibit of Schedule
re-above mentioned damage case in the office of P. W. Claflin,
212 Tioga Street, Eastmont, Johnstown, Pennsylvania at 4:00 p.m.,
a.s.t., Wednesday, July 2, 1968.

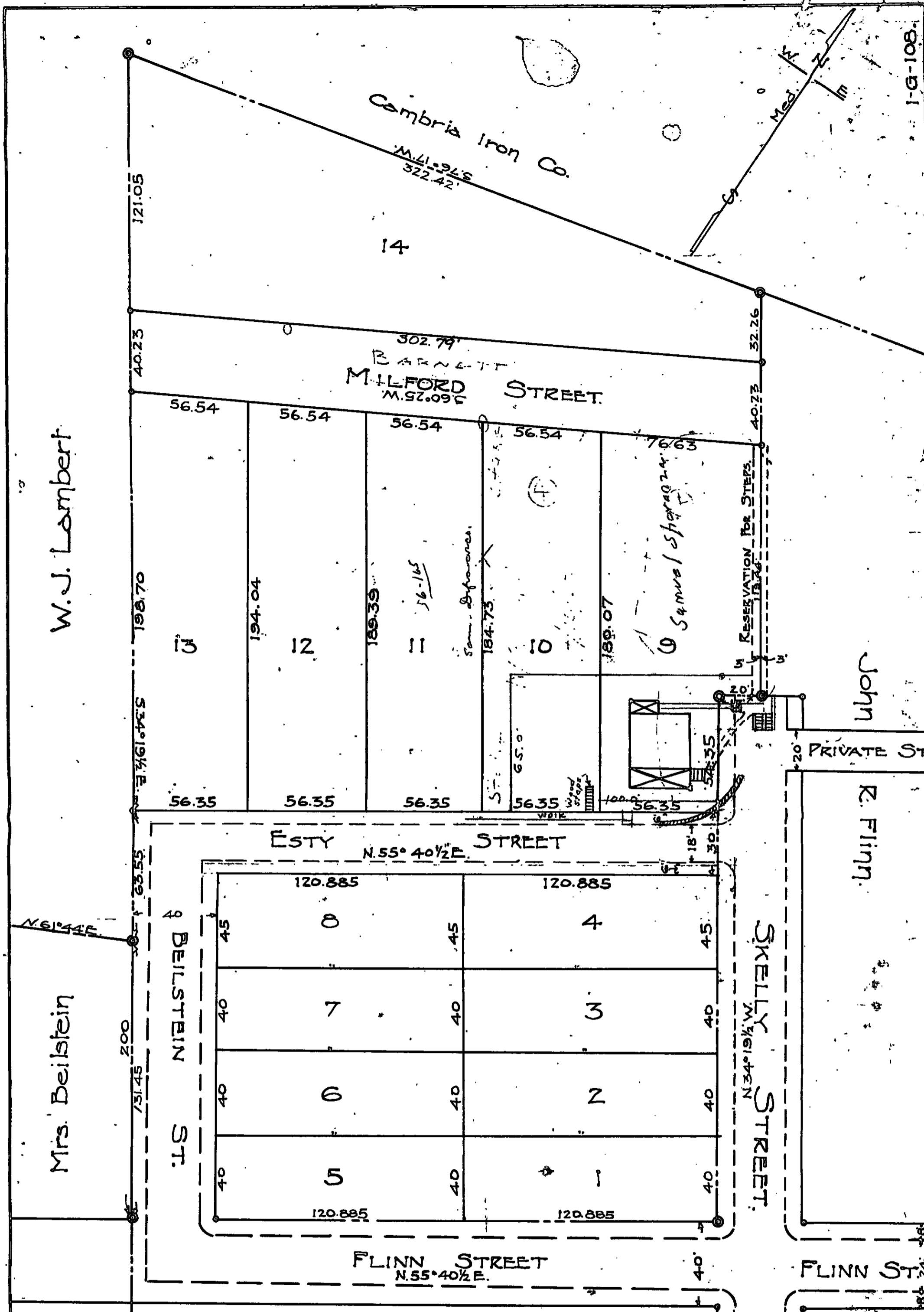
P. W. Claflin
P. W. Claflin
Chairman of Viewers

PWC:llt

Land - Prob -

Dist. clon #1092 Ck. well -
10 2 in

Henry - - Fort June - 2. 7. 1892



W. J. Lambert

Mrs. Beilstein

John

R. Flinn

Memorial Hospital

State of Pennsylvania }
County of Cambria } SS.

On the _____ day of _____ 1914, before me a subscribed Notary Public for the above County and State, personally appeared Joseph F. Mayer Et. Ox. who acknowledged this plan to be the plan of Lots, and Streets as laid out by them.

Witness my hand and Notarial Seal this _____ day of _____ 1914.

Notary Public

My Commission Expires _____

JOSEPH F. MAYER

SHOWING

LOT LAYOUT

SITUATE IN

JOHNSTOWN CITY-EIGHTH WARD

Scale 1" = 40'-S. Dickey & Co. - Aug. 24, 1913.

Civil & Mining Engrs.
Johnstown, Pa.

Revised July 20, 1915.

Pl. H. Book 1-2 of 2
Ex. of 30.